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- (5) A days-at-sea system;
- (6) Adjustments to specifications;
- (7) Adjustments to the Canadian catch deducted when determining specifications;
- (8) Distribution of the ACL;
- (9) Gear restrictions (such as mesh size, etc.) or requirements (such as bycatch-reduction devices, etc.);
- (10) Vessel size or horsepower restrictions;
- (11) Closed seasons;
- (12) Minimum fish size;
- (13) Trip limits;
- (14) Seasonal, area, or industry sector quotas;
- (15) Measures to describe and identify essential fish habitat (EFH), fishing gear management measures to protect EFH, and designation of habitat areas of particular concern within EFH;
- (16) Measures to facilitate aquaculture, such as minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones, and any other measures included in the FMP;
- (17) Changes to the overfishing definition;
- (18) Vessel monitoring system requirements;
- (19) Limits or restrictions on the harvest of herring for specific uses;
- (20) Quota monitoring tools, such as vessel, operator, or dealer reporting requirements;
- (21) Permit and vessel upgrading restrictions;
- (22) Implementation of measures to reduce gear conflicts, such as mandatory monitoring of a radio channel by fishing vessels, gear location reporting by fixed gear fishermen, mandatory plotting of gear by mobile fishermen, standards of operation when conflict occurs, fixed gear marking or setting practices; gear restrictions for certain areas, vessel monitoring systems, restrictions on the maximum number of fishing vessels, and special permitting conditions;
- (23) Limited entry or controlled access system;
- (24) Specification of the amount of herring to be used for roe

- (25) In-season adjustments to ACLs;
- (26) Measures to address bycatch and bycatch monitoring;
- (27) Requirements for a herring processor survey;
- (28) ACL set-aside amounts, provisions, adjustments;
- (29) [Reserved]
- (30) AMs;
- (31) Changes to vessel trip notification and declaration requirements;
- (32) Adjustments to measures to address slippage, including sampling requirements;
- (33) River Herring Monitoring/Avoidance Areas;
- (34) Provisions for river herring catch avoidance program, including adjustments to the mechanism and process for tracking fleet activity, reporting catch events, compiling data, and notifying the fleet of changes to the area(s); the definition/duration of 'test tows,' if test tows would be utilized to determine the extent of river herring catch in a particular area(s); the threshold for river herring catch that would trigger the need for vessels to be alerted and move out of the area(s); the distance that vessels would be required to move from the area(s); and the time that vessels would be required to remain out of the area(s).
- (35) Changes to criteria/provisions for access to Northeast Multispecies Closed Areas;
- (36) River herring catch caps; and
- (37) Any other measure currently included in the FMP.

(c) *Emergency action.* Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson-Stevens Act.

[72 FR 11277, Mar. 12, 2007, as amended at 73 FR 4757, Jan. 28, 2008; 76 FR 11380, Mar. 2, 2011; 76 FR 81850, Dec. 29, 2011; 79 FR 8817, Feb. 13, 2014]

§ 648.207 Herring Research Set-Aside (RSA).

(a) NMFS shall publish a Request for Proposals (RFP) in the FEDERAL REGISTER, consistent with procedures and requirements established by NMFS, to solicit proposals from industry for the upcoming 3 fishing years, based on research priorities identified by the Council.

(b) Proposals submitted in response to the RFP must include the following information, as well as any other specific information required within the RFP: A project summary that includes the project goals and objectives, the relationship of the proposed research to herring research priorities and/or management needs, project design, participants other than the applicant, funding needs, breakdown of costs, and the vessel(s) for which authorization is requested to conduct research activities.

(c) NMFS shall convene a review panel, including technical experts, to review proposals submitted in response to the RFP. Each panel member shall recommend which research proposals should be authorized to utilize RSA, based on the selection criteria described in the RFP.

(d) NMFS shall consider each panel member's recommendation, provide final approval of the projects and the Regional Administrator may, when appropriate, exempt selected vessel(s) from regulations specified in each of the respective FMPs through written notification to the project proponent.

(e) The grant awards approved under the RFPs shall be for the upcoming 3 fishing years, unless the Council identifies new/different research priorities during the interim years and decides to publish a second RFP. Proposals to fund research that would start prior to, or that would end after the fishing year, are not eligible for consideration. The RSA must be utilized in the same fishing year in which it was distributed (i.e., RSA and compensation trips cannot be rolled over into future years). However, the money generated from the RSA may be rolled over into, or used to fund research in future years, consistent with the multi-year proposal.

(f) Whenever possible, research proposals shall be reviewed and approved prior to the publication of final quota specifications for the upcoming fishing years. In the event that the approved proposals do not make use of any or all of the set-asides, the unutilized portion of the set-aside shall be reallocated back to its respective management area(s) when the final specifications are published. If there is unutilized set-aside available, NMFS, at the request

of the Council, could publish another RFP for either the second or third years of the 3-year specifications. In this case, NMFS shall release the unutilized portion of the RSA back to its respective management area(s) for the first year of the specifications and any other year that yields unutilized set-aside after an additional RFP is published. The Council also may decide not to publish another RFP, in which case NMFS may release the unutilized portion of the set-aside back to its respective management area(s) for all 3 fishing years covered by the specifications.

(g) If a proposal is approved, but a final award is not made by NMFS, or if NMFS determines that the allocated RSA cannot be utilized by a project, NMFS shall reallocate the unallocated or unused amount of the RSA to the respective sub-ACL, in accordance with the APA, provided that the RSA can be available for harvest before the end of the fishing year for which the RSA is specified.

(h) Any RSA reallocated under paragraphs (f) and (g) of this section may not be used solely as compensation for research.

(i) Researchers may apply for the use of more than one herring RSA allocation for individual research projects, and may request that the set-aside be collected separately from the research trip or as part of the research trip. The research compensation trips do not necessarily have to be conducted by the same vessel, but must be conducted in the management area from which the set-aside was derived.

(j) No more than 50 percent of the allocated set-aside may be taken before the research begins. If a research project is terminated for any reason prior to completion, any funds collected from the catch sold to pay for research expenses must be refunded to U.S. Treasury.

(k) NMFS shall provide authorization of the research activities to specific vessels by letter of acknowledgement, letter of authorization, or Exempted Fishing Permit issued by the Regional Administrator, which must be kept on board the vessel.

(l) Upon completion of herring research projects approved under this

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part, researchers must provide the Council and NMFS with a report of research findings, which must include: A detailed description of methods of data collection and analysis; a discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; and a detailed final accounting of all funds used to conduct the herring research.

[72 FR 11277, Mar. 12, 2007, as amended at 76 FR 11381, Mar. 2, 2011]

Subpart L—Management Measures for the Spiny Dogfish Fishery

SOURCE: 65 FR 1570, Jan. 11, 2000, unless otherwise noted.

§ 648.230 Spiny dogfish Annual Catch Limits (ACLs).

(a) The Spiny Dogfish Monitoring Committee shall recommend to the Joint Spiny Dogfish Committee, an ACL for the commercial spiny dogfish fishery, which shall equal to the domestic ABC (*i.e.*, the ABC minus Canadian catch) recommended by the SSC as specified in § 648.20.

(1) *Periodicity.* The spiny dogfish ACL may be established on an annual basis for up to 5 years at a time, dependent on whether the SSC provides single or multiple-year ABC recommendations.

(2) [Reserved]

(b) *Performance review.* The Spiny Dogfish Monitoring Committee shall conduct a detailed review of fishery performance relative to the ACL at least every 5 years.

(1) If an ACL is exceeded with a frequency greater than 25 percent (*i.e.*, more than once in 4 years or any 2 consecutive years), the Spiny Dogfish Monitoring Committee will review fishery performance information and make recommendations to the Councils for changes in measures intended to ensure ACLs are not exceeded as frequently.

(2) The Councils may specify more frequent or more specific ACL performance review criteria as part of a stock rebuilding plan following a determination that the spiny dogfish stock has become overfished.

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(3) Performance reviews shall not substitute for annual reviews that occur to ascertain if prior year ACLs have been exceeded, but may be conducted in conjunction with such reviews.

[76 FR 60642, Sept. 29, 2011]

§ 648.231 Spiny dogfish Annual Catch Target (ACT) and Total Allowable Level of Landings (TAL).

(a) The Spiny Dogfish Monitoring Committee shall identify and review the relevant sources of management uncertainty to recommend an ACT and a TAL for the fishery as part of the spiny dogfish specification process specified in § 648.232. The Spiny Dogfish Monitoring Committee recommendations shall identify the specific sources of management uncertainty that were considered, technical approaches to mitigating these sources of uncertainty, domestic commercial and recreational discards, and any additional relevant information considered in the ACT and TAL recommendation process.

(1) The ACT shall be identified as less than or equal to the ACL.

(2) The Spiny Dogfish Monitoring Committee shall recommend a TAL to the Joint Spiny Dogfish Committee, which accounts for domestic commercial and recreational discards (ACT minus domestic dead discards). The TAL is equivalent to the annual coastwide commercial quota.

(b) *Periodicity.* The TAL may be established on an annual basis for up to 5 years at a time, dependent on whether the SSC provides single or multiple year ABC recommendations.

(c) *Performance review.* The Spiny Dogfish Monitoring Committee shall conduct a detailed review of fishery performance relative to TALs in conjunction with any ACL performance review, as outlined in § 648.230(b).

[76 FR 60642, Sept. 29, 2011]

§ 648.232 Spiny dogfish specifications.

(a) *Commercial quota and other specification measures.* The Spiny Dogfish Monitoring Committee shall recommend to the Joint Spiny Dogfish Committee a TAL (*i.e.*, annual coastwide commercial quota) and any